

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re

Patent Application of

Anthony J. DeGregoria, et. al.

Filed: concurrently herewith

"INTEGRATED HEAT RECOVERY
VENTILATOR HEPA FILTER USING A HEPA
FILTER MATERIAL REGENERATIVE HEAT
EXCHANGER"

I, Marilyn S. Jorenby, hereby certify that this correspondence is being deposited with the US Postal Service as first class mail in an envelope addressed to Assistant Commissioner for Patents, Washington, D.C. 20231, on the date of my signature.

Marilyn S. Jorenby
Signature
March 19, 2001
Date of Signature

PRELIMINARY AMENDMENT

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

This Preliminary Amendment is being filed concurrently with a continuation application for U.S. Serial No. 09/082,171 (hereinafter, the "parent application"). The amendments to the claims and the remarks made herein are intended to address certain rejections made by the Examiner during prosecution of the parent application. Please enter the following changes to the claims and remarks related thereto into the record of the subject application prior to formal examination thereof.

IN THE CLAIMS

Please cancel claims 1-7 and 24.

Substitute the following claims for the corresponding numbered claims in the application.

8. (Amended) A heat recovery ventilator for use in a room, comprising a housing, two blowers, at least two stationary regenerative heat exchangers made of a pleated HEPA filter material, a shaft, a single rotating air switch mounted on said shaft, a motor for driving said blowers and said shaft, one of said blowers for forcing a stale airstream out of the room, the other of said blowers for forcing a fresh airstream into the room, said air switch, in use, alternately imparting the stale airstream from one said blower to a regenerative heat exchanger, then imparting the fresh airstream to that same heat exchanger and through said other blower, when said air switch rotates in a 180° turn.

12. (Amended) The heat recovery ventilator of claim 8, wherein said HEPA filter material captures at least 99.97% of particles having a diameter greater than 0.3 microns.

13. (Amended) The heat recovery ventilator of claim 8, wherein said HEPA filter material is rated at least 85% Dust-Spot Efficiency percentage as measured by ASHRAE Standard 52.1-1992, Dust-Spot Procedure.

REMARKS:

In the underlying parent application, the Examiner previously rejected claims 8, 10-11 and 14-23 under 35 USC § 103 as being unpatentable over Tengesdal in view of McCoy. This rejection is again traversed for at least the following reasons because, as set forth below, a *prima facie* case of obviousness has not been established.

Tengesdal teaches a filter (14) and a separate and distinct heat exchanger (15) (col. 4, lines 32-36; FIG. 4). Tengesdal does not teach or suggest that the heat exchanger could be made from a HEPA filter material. Nor does Tengesdal teach or suggest that the filter (14) and heat exchanger (15) could be combined as a single device to provide the filtering and heat exchanging functions of both devices.

McCoy discloses a breath warmer apparatus. Where is it taught or suggested, either in Tengesdal or McCoy or any other art of record, that the breath warmer apparatus of McCoy could be used to replace the filter (14) and heat exchanger (15) of Tengesdal?

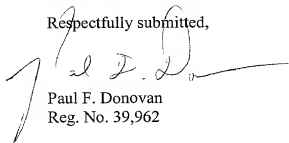
Without agreeing with the Examiner as to what is or is not taught by the cited references, even if it could be argued that Tengesdal and McCoy suggest that the elements of the claimed invention were individually known, this alone is not sufficient to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of

the cited references (see MPEP 2143.01). Since the Examiner has not provided any such objective reasoning, it is respectfully submitted that the pending claims are allowable.

Consideration and allowance of claims 8-23 is respectfully requested.

In the event there are any issues that can be resolved by telephone conference, the Examiner is invited to telephone the undersigned at the number indicated below.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Paul F. Donovan", with a long horizontal flourish extending to the right.

Paul F. Donovan
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Version With Markings To Show Changes Made

8. (Amended) A heat recovery ventilator for use in a room [or the like], comprising a housing, two blowers, at least two stationary regenerative heat exchangers made of a pleated HEPA filter material, a shaft, a single rotating air switch mounted on said shaft, a motor for driving said blowers and said shaft, one of said blowers for forcing a stale airstream out of the room[;], the other of said blowers for forcing a fresh airstream into the room, said air switch, in use, alternately imparting the stale airstream from one said blower to a regenerative heat exchanger, then imparting the fresh airstream to that same heat exchanger and through said other blower, when said air switch rotates in a 180° turn.

12. (Amended) The heat recovery ventilator of claim [6] §, wherein said HEPA filter material captures at least 99.97% of particles having a diameter greater than 0.3 microns.

13. The heat recovery ventilator of claim [6] §, wherein said HEPA filter material is rated at least 85% Dust-Spot Efficiency percentage as measured by ASHRAE Standard 52.1-1992, Dust-Spot Procedure.

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